

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of SAN DIEGO GAS & ELECTRIC
COMPANY under the Catastrophic Event
Memorandum Account (CEMA) for Recovery of
costs related to the 2003 Southern California
Wildfires. (U 902-M)

Application 04-06-035
(Filed June 28, 2004)

**SCOPING MEMO AND RULING
OF ASSIGNED COMMISSIONER AND
ADMINISTRATIVE LAW JUDGE**

Pursuant to Article 2.5 of the Commission's Rules of Practice and Procedure (Rules), this Scoping Memo and Ruling addresses issues, schedule and other matters necessary to define the scope of this proceeding. The Commission's Rules are available on the Commission's web site.¹

1. Background

On June 28, 2004, San Diego Gas & Electric Company (SDG&E) filed an application to recover \$37.6 million, the California jurisdictional costs associated with the 2003 Southern California Wildfires that Applicant believes to be in conformance with its Catastrophic Event Memorandum Account (Wildfires Account) as authorized in its Preliminary Statement.

By Ruling dated August 5, 2004, parties were directed to meet and confer on procedural and other matters in advance of a prehearing conference.

¹ On the Commission's web page (<http://www.cpuc.ca.gov/>), click on "Laws, Rules, Procedures."

(Rule 49.) Parties met on August 13, 2004. On August 13, 2004, Applicant, the Office of Ratepayer Advocates (ORA), and jointly the Utility Consumers' Action Network (UCAN) and Aglet Consumer Alliance (Aglet), served Prehearing Conference Statements. On August 17, 2004, a prehearing conference was held to determine parties, identify issues, consider the schedule, and address other matters as necessary to proceed with this application.

2. Categorization and Ex Parte Communication

Applicant proposed that this proceeding be categorized as ratesetting. The Commission preliminarily categorized this matter as ratesetting. (Resolution ALJ 176-3136, dated July 8, 2004.) The categorization of this proceeding is determined herein to be ratesetting. This is the Assigned Commissioner's Ruling on category, and appeals, if any, must be filed and served within 10 days. (Rule 6.4.) In a ratesetting proceeding, ex parte communications are permitted only if consistent with certain restrictions, and are subject to reporting requirements. (*See* Rules 7(c) and 7.1.)

3. Hearing and Record

Applicant proposed that this proceeding might include a hearing. The Commission preliminarily determined that this matter would require hearing. (Resolution ALJ 176-3136.) This Scoping Memo adopts a schedule that includes formal hearing. (*See* Rules 6(a)(3) and 6.1(a).)

The record will be composed of all filed and served documents. It will also include testimony and exhibits received at hearing.

4. Issues

Based on applicant's statement of proposed issues in the application, ORA's Protest, plus parties' Prehearing Conference Statements, and at the prehearing conference, the issues can be reasonably identified as:

- Reasonableness of SDG&E's overall management of the restoration of service in a safe and timely manner, consistent with worker safety, public need, and equitable treatment of customers.
- Reasonableness of the gross amount of Operating & Maintenance Expenses recorded in the Wildfires Account. This includes a review of:
 - Utility labor
 - Materials, vehicles and other equipment
 - Contract labor including mutual assistance
 - Overheads and any other allocated costs
 - Any other costs treated as an expense
 - Criteria for classification as expense or capital
- Reasonableness of the gross amount of Capital Expenditures recorded in the Wildfires Account. This includes a review of:
 - Utility labor
 - Materials, vehicles and other equipment
 - Contract labor including mutual assistance
 - Overheads and any other allocated costs
 - Any other costs treated as a capital expenditure
- Reasonableness of SDG&E's determination of incremental costs as defined by Resolution E-3238.
- Reasonableness of the forecast 2005 ongoing capital-related costs of \$4.3 million for electric distribution and gas revenue requirements. This includes an analysis of any 2005 incremental or avoided expense or capital expenditure impacts on SDG&E's subsequent operations as a result of service restoration after the Wildfires.
- Allocation of all costs between the jurisdictions of the Federal Energy Regulatory Commission and the California Public Utilities Commission.

- The reasonableness and timing of SDG&E's proposed ratemaking treatment of any authorized recovery of the Wildfires Account balances.

For the purposes of this proceeding and as used in the scope above, we define reasonableness for a prudent manager, i.e., SDG&E, consistent with prior Commission findings, i.e., that the reasonableness of a particular management action depends on what the utility knew or should have known at the time that the managerial decision was made.²

5. Schedule

The following schedule is adopted for this proceeding:

Wildfires Account Schedule	
Prehearing Conference	August 17, 2004 (Tuesday)
Scoping Memo	August 27, 2004 (Friday)
Last Initial Discovery	September 24, 2004 (Friday)
Last Follow-up Discovery to Discovery Responses	October 8, 2004 (Friday)
Last Response to Follow-up	October 15, 2004 (Friday)
ORA and Interested Parties Serve Testimony	October 22, 2004 (Friday)
All Parties Serve Rebuttal	November 5, 2004 (Friday)
Evidentiary Hearings	November 15 - 19, 2004 (Monday - Friday) at 505 Van Ness Avenue, State Office Building, San Francisco, CA 94102
Concurrent Opening Briefs	December 3, 2004 (Friday)
Concurrent Reply Briefs and Projected Submission Date	December 10, 2004 (Friday)

² See for example, D.02-08-064, dated August 22, 2002, mimeo., pp. 5-8.

Finally, the adopted dates may change as a result of subsequent written Ruling or as directed by the Principal Hearing Officer (*e.g.*, at hearing). Absent such written Ruling or order, the amended application and dates through hearing are set herein.

6. Discovery

Parties that have not already done so should engage in discovery immediately. As scheduled, parties have deadlines to submit any initial discovery on a topic and are thereafter limited in time for “follow-up” questions on the initial responses by SDG&E. Similarly, SDG&E is limited in its time to respond.

7. Summary of Recommendations:

All Interested Parties that serve testimony in this proceeding shall include as a table in that testimony a summary of all proposed recommendations with citation(s) to exhibit(s) and work papers. All recommendations shall be listed in descending order of monetary impact. Parties should show in separate columns:

- a. Sequential number of recommendation
- b. Short caption of recommendation
- c. Expense impact, or
- d. Capital Expenditure impact
- e. Exhibit(s) page citation(s) for the primary discussion of the recommendation
- f. Exhibit(s) page citation(s) for the primary presentation of the expense or capital expenditure impact

8. Briefs

To the fullest extent reasonably possible, parties should use the same outline for briefs. This practice promotes understandability, consistency and completeness. Parties should agree on a common outline for briefs before the conclusion of hearings, and should bring any unresolved disputes to the attention of the Principal Hearing Officer before the end of hearings.

9. Final Oral Argument

A party in a ratesetting proceeding has the right to make a Final Oral Argument (Final Argument) before the Commission, if the Final Argument is requested within the time and manner specified in the Scoping Memo or later ruling. (*See* Rule 8(d).) Parties shall use the following procedure for requesting a Final Argument.

Any party seeking to present a Final Argument shall file and serve a motion with sufficient time for Commission consideration of the motion before the proposed Final Argument.³ The motion shall state the request, the subject(s) to be addressed, the amount of time requested, recommended procedure and order of presentations, and anything else relevant to the motion. The motion shall contain all the information necessary for the Commission to make an informed ruling on the motion, providing for an efficient, fair, equitable, and reasonable Final Argument. If more than one party plans to move for Final Argument, parties shall use their best efforts to present a joint motion, including a joint recommendation on procedure, order of presentations, and anything else relevant to the motion. A response to the motion may be filed.

³ A specific date may or may not be set by later Ruling.

If a final determination is subsequently made that no hearing is required, Rule 8(d) shall cease to apply, along with a party's right to make a Final Argument.

10. Service List

The official service list was created at the Prehearing Conference, and is now on the Commission's web page. An electronic mail protocol is adopted and included as Attachment A.

11. Principal Hearing Officer & Presiding Officer

Administrative Law Judge Douglas M. Long is the Principal Hearing Officer and Presiding Officer. (*See* Rules 5(k) and 5(l).)

IT IS RULED that:

1. The final categorization of this proceeding is ratesetting and hearings are required for the purpose of Article 2.5 of the Commission's Rules of Practice and Procedure (Rules).
2. Ex parte communications are permitted with restrictions, and are subject to reporting requirements. (*See* Rules 7(c) and 7.1.)
3. The record shall be composed of all filed and served documents, plus testimony and exhibits received at hearing.
4. The issues and schedule are as set forth in the body of this Ruling unless amended by subsequent Ruling or order of the Principal Hearing Officer.
5. Parties should begin discovery immediately.
6. Intervenors, including ORA, shall include in any testimony served in this proceeding a Summary of Recommendations as described in this ruling.
7. Parties shall use the same outline for briefs.
8. Parties shall follow the procedure stated in the body of this Ruling in making any request for Final Oral Argument. (*See* Rule 8(d).)

9. An electronic Service Protocol is adopted for this proceeding in Attachment A.

10. Administrative Law Judge Douglas M. Long is the Principal Hearing Officer and Presiding Officer. (*See* Rules 5(k) and 5(l).)

Dated August 27, 2004, at San Francisco, California.

/s/ SUSAN P. KENNEDY

Susan P. Kennedy
Assigned Commissioner

/s/ DOUGLAS M. LONG

Douglas M. Long
Administrative Law Judge

ATTACHMENT A
ELECTRONIC SERVICE PROTOCOLS

1. Party Status in Commission Proceedings

These electronic service protocols are applicable to all “appearances.” In accordance with Commission practice, by entering an appearance at a hearing or by other appropriate means, an interested party or protestant gains “party” status. A party to a Commission proceeding has certain rights that non-parties (those in “state service” and “information only” service categories) do not have. For example, a party has the right to participate in evidentiary hearings, file comments on a proposed decision, and appeal a final decision. A party also has the ability to consent to waive or reduce a comment period, and to challenge the assignment of an Administrative Law Judge (ALJ). Non-parties do not have these rights, even though they are included on the service list for the proceeding and receive copies of some or all documents.

2. Service of Documents by Electronic Mail

For the purposes of this proceeding, all appearances shall serve documents by electronic mail, and in turn, shall accept service by electronic mail.

Usual Commission practice requires appearances to serve documents not only on all other appearances but also on all non-parties in the state service category of the service list. For the purposes of this proceeding, appearances shall serve the information only category as well since electronic service minimizes the financial burden that broader service might otherwise entail.

3. Notice of Availability

If a document, including attachments, exceeds 75 pages, parties may serve a Notice of Availability in lieu of all or part of the document, in accordance with Rule 2.3(c) of the Commission's Rules of Practice and Procedure.

4. Filing of Documents

These electronic service protocols govern service of documents only, and do not change the rules regarding the tendering of documents for filing. Documents for filing must be tendered in paper form, as described in Rule 2, et. seq., of the Commission's Rules of Practice and Procedure. Moreover, all filings shall be served in hard copy (as well as e-mail) on the assigned ALJ.

5. Electronic Service Standards

As an aid to review of documents served electronically, appearances should follow these procedures:

- Merge into a single electronic file the entire document to be served (e.g., title page, table of contents, text, attachments, service list).
- Attach the document file to an electronic note.
- In the subject line of the note, identify the proceeding number; the party sending the document; and the abbreviated title of the document.
- Within the body of the note, identify the word processing program used to create the document if anything other than Microsoft Word. (Commission experience is that most recipients can readily open documents sent in Microsoft Word or Microsoft Excel formats.)
- Documents served on the ALJ and Energy Division shall be fully functioning Word or Excel files, and shall not be in Adobe "pdf" format.

If the electronic mail is returned to the sender, or the recipient informs the sender of an inability to open the document, the sender shall immediately arrange for alternative service (paper mail shall be the default, unless another means is mutually agreed upon).

6. Obtaining Up-to-Date Electronic Mail Addresses

The current service lists for active proceedings are available on the Commission's web page, www.cpuc.ca.gov. To obtain an up-to-date service list of electronic mail addresses:

- Choose "Proceedings" then "Service Lists."
- Scroll through the "Index of Service Lists" to the number for this proceeding.
- To view and copy the electronic addresses for a service list, download the comma-delimited file, and copy the column containing the electronic addresses.

The Commission's Process Office periodically updates service lists to correct errors or to make changes at the request of parties and non-parties on the list. Parties should copy the current service list from the web page (or obtain paper copy from the Process Office) before serving a document.

7. Pagination Discrepancies in Documents Served Electronically

Differences among word-processing software can cause pagination differences between documents served electronically and print outs of the original. (If documents are served electronically in PDF format, these differences do not occur.) For the purposes of reference and/or citation (e.g., at the Final Oral Argument, if held), parties should use the pagination found in the original document.

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(END OF ATTACHMENT A)

CERTIFICATE OF SERVICE

I certify that I have by mail and by e-mail this day served a true copy of the original attached Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge on all parties of record in this proceeding or their attorneys of record.

Dated August 27, 2004, at San Francisco, California.

/s/ FANNIE SID
Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TTY# 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.